

REMARKS/ARGUMENTS

Claims 1-2, 4-12, 14-23 and 25-27 remain in the application for further prosecution. Claims 1, 2, 4, 8, 12, 14, 25, 26 and 27 have been amended. Claims 3, 13 and 24 have been canceled without prejudice.

Claim Rejection - 35 U.S.C. § 112

Claims 14 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 14 and 25 to make the term "jackpot" consistent with the parent claims to create proper antecedent basis for the claim terms.

Claim Rejections – 35 U.S.C. §§ 102 and 103

Claims 1-3, 5-8, 11-22 and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,564,700 ("Celona"). Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Celona. Claims 4 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Celona as applied to at least claim 1 and further in view of U.S. Patent No. 6,800,026 ("Cannon").

The pending application is directed toward a separate side-wager option making player eligible for multi-level progressive award. The side-wager is a separate wager from the basic wager for the basic game. Thus, there is no threshold amount for the basic wager that makes a player eligible for the multi-level progressive award. A player must make a completely separate side-wager in order to be eligible for the multi-level progressive award. Another aspect of the pending application is the offering of a separate side-wager making player eligible for a progressive award. The separate side-wager is distinct from the basic wager and no matter what

amount is wagered by the player in the basic wager, the player cannot be eligible for the progressive award. A triggering outcome triggers the progressive award if the separate side-wager is made by the player. If the separate side-wager is not made by the player, the triggering outcome only allows the awarding of a basic award with the different basic payout as shown in FIG. 5 of the specification.

The Office Action has asserted that Celona discloses allowing a player to make a base wager and additional wagers to a maximum bet. (Col. 3, l. 52-Col. 4, l. 15). The player is eligible for a progressive award if they place a bet in an amount beyond a predetermined minimum amount for the base wager. (Col. 3, ll. 55-58). The Office Action asserts the additional wager is the equivalent of the side-wager. However Celona does not give the player a separate control to make a separate side-wager, the so-called side-wager in Celona is simply part of the same base wager. The player has no control over the eligibility for a progressive award as the player is either automatically eligible for the progressive award or not based solely on the amount of the base wager. There is no player initiated separate side-wager to trigger eligibility for the progressive award in Celona. Celona thus only awards eligibility if the player bets a maximum for the base game, no separate side-wager is required for eligibility for the secondary award. (Col. 3, ll. 58-64) Further, Celona does not disclose having a default base game award from a triggering condition if a side-wager is not made and providing a special award from the triggering condition if a side-wager is made.

Applicant has amended claims 1 and 12 to include the elements of accepting a basic wager and allowing the player to make a separate side-wager for eligibility for a multi-level progressive award. These claims also require first and second progressive jackpots that a player may earn if the side-wager was made. Celona does not disclose nor suggest such elements as

Celona may only accept a single wager for both the basic award and a single progressive award. Further Celona does not disclose a multi-level progressive award as the player is only eligible for a single progressive award.

Applicant has amended claims 8 and 26 to include the elements of a basic wager and a separate side-wager. Further these claims have been amended to award a basic payout on achieving a triggering outcome if a side-wager is not made and awarding a progressive payout on achieving the triggering event if the side-wager is made. Celona does not allow different types of awards from the same outcome depending on the placing of a side-wager as required by the amended claims. As explained above, Celona only gives a player the option of being eligible for a single progressive award if a triggering outcome occurs. In Celona, the player is either eligible for the award by placing a basic game wager greater than a certain predetermined level, or the player is not eligible for any award. If the player is eligible, Celona awards the progressive award on a triggering event, but if the player is not eligible, no award is awarded if the triggering event occurs. Celona thus does not disclose a triggering outcome that awards a progressive award if a player places a separate side-wager and awards a basic award if the player did not place the separate side-wager.

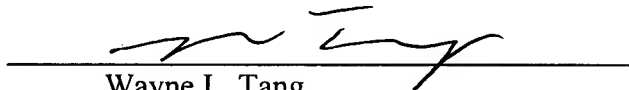
Conclusion

It is Applicant's belief that all of the claims are now in condition for allowance and actions towards that effect is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the number indicated. It is believed that no fees are presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Nixon Peabody Deposit Account No. 50-4181, Order No. 247079-000225USPT.

Respectfully submitted,

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